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United States of America

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

|                           |   |                                   |
|---------------------------|---|-----------------------------------|
| UNITED STATES OF AMERICA, | ) | No. 08CR1171-W                    |
|                           | ) |                                   |
| Plaintiff,                | ) | DECLARATION OF IRS-CI SUPERVISORY |
|                           | ) | SPECIAL AGENT SARA BRANA IN       |
| v.                        | ) | SUPPORT OF GOVERNMENTS RESPONSE   |
|                           | ) | TO DEFENDANT'S MOTION TO DISMISS, |
| DAVID C. JACQUOT,         | ) | SUPPRESS EVIDENCE AND COMPEL      |
|                           | ) | DISCOVERY                         |
| Defendant.                | ) | DATE: September 8, 2008           |
|                           | ) | TIME: 2:00 p.m.                   |

I, SARA BRANA, hereby declare as follows:

1. I am a Supervisory Special Agent with the Internal Revenue Service-Criminal Investigation("IRS-CI"). I have been a Special Agent for 23 years.

2. I was one of the team leaders for a search that was conducted at the offices of Xelan, Inc. by IRS-CI, United States Postal Inspection Service ("USPIS"), the Department of Homeland Security, Immigration and Customs Enforcement ("ICE"), and the California Department of Insurance on November 4, 2004.

3. Pursuant to a search warrant issued by U.S. Magistrate Judge Adler, we entered the premises located at 401 West A St., Ste. 2210, San Diego, California in the morning . Inside this suite was an office belonging to Michael Suverkrubbe which was the Xelan Law Firm office. This office had tape across it with a sign that stated "Attorney Client". We did not search this office, any offices known to us to be attorney's offices or or any areas known to contain attorney client records.

1           4. There were several attorneys present during the execution of the search. Among those present  
2 were Michael Lipman who represented Xelan, Inc. and Silas Harrington. Neither Mr. Lipman nor Mr.  
3 Harrington made any objection to how the search was being conducted. David Jacquot was not present  
4 at the search.

5           5. In order to protect the integrity of any potentially privileged attorney-client communications,  
6 a taint team was designated to review any potentially privileged records. This team consisted of agents  
7 that are not members of the prosecution team and have no involvement in any prosecutions related to  
8 the search. Any potentially privileged records were reviewed by the taint team. If they were deemed  
9 within the scope of the warrant, they were separately boxed and sealed.

10           6. I have been advised by IRS-CI Special Agent Weeks that these boxes were included on an  
11 inventory provided by the U.S. Attorney's Office to Michael Lipman on behalf of the Xelan entities and  
12 Xelan principal L. Donald Guess. Special Agent Weeks advised me that Mr. Lipman reviewed the  
13 contents of these boxes but that none of the members of the prosecution team have reviewed the boxes.

14           7. In addition to the documentary evidence, IRS-CI Special Agent Roger Lange and other IRS-  
15 CI computer personnel imaged several computers located at Xelan's offices. No computers were  
16 removed from the premises. Only forensic images were taken of the computers pursuant to the  
17 procedures set forth in the search warrant.

18           I declare under penalty of perjury that the foregoing is true and correct.

19  
20           Dated: 8-29-08

  
SARA BRANA

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

DAVID C. JACQUOT.,

Defendant.

Case No. 08cr1171-W

CERTIFICATE OF SERVICE

IT IS HEREBY CERTIFIED THAT:

I, Faith A. Devine, am a citizen of the United States and am at least eighteen years of age. My business address is 880 Front Street, Room 6293, San Diego, California 92101-8893.

I am not a party to the above-entitled action. I have caused service of DECLARATION OF IRS-CI SUPERVISORY SPECIAL AGENT SARA BRANA IN SUPPORT OF GOVERNMENT'S RESPONSE AND OPPOSITION TO DEFENDANT'S MOTION TO DISMISS, SUPPRESS EVIDENCE AND COMPEL DISCOVERY on the following party by electronically filing the foregoing with the Clerk of the District Court using its ECF System, which electronically notifies him.

David C. Jacquot, Esq. - dave@jacquotlaw.com

I declare under penalty of perjury that the foregoing is true and correct.

Executed on August 29, 2008.

s/ Faith A. Devine  
FAITH A. DEVINE